

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

BASHIR AHMAD NOORZAI,

Civil Case No. CV 08-0472-PK

Petitioner,

Agency # A 28 116 856

vs.

MICHAEL MUKASEY, Attorney General of
the United States, **ROBERT S. MUELLER**
III, Director of the Federal Bureau of
Investigation, **MICHAEL A. CANNON** Chief,
National Namecheck Section of the Federal
Bureau of Investigation, **MICHAEL**
CHERTOFF, Secretary of the Department of
Homeland Security, **JONATHAN**
SCHARFEN¹, Director, United States
Citizenship and Immigration Services,
WILLIAM McNAMEE, District Director,
United States Citizenship and Immigration
Services,

**ORDER OF REMAND WITH
INSTRUCTIONS**

Respondents.

Based on the joint motion of the parties and the files and records in the case, it is
HEREBY ORDERED AND ADJUDGED as follows.

1. This matter is remanded to the United States Citizenship & Immigration Services (“USCIS”) Respondents with instructions to adjudicate Petitioner’s Application for Naturalization, Immigration Form N-400, within 60 days of the date of the order of remand.

¹ Jonathan Scharfen is automatically substituted for Emilio Gonzalez under Fed. R. Civ. P. Rule 25(d)(1).

2. If Petitioner's Application for Naturalization is approved by USCIS, the USCIS Respondents are instructed to naturalize Petitioner as a citizen of the United States within 60 days of the date of the order of remand.
3. If Petitioner's Application for Naturalization is denied by USCIS and Petitioner timely files a request for an administrative hearing on the denial (Form N-336), the USCIS Respondents are instructed to hold a hearing on the administrative appeal within 180 days of the administrative hearing request as required by 8 C.F.R. § 336.2(b). The USCIS Respondents are further instructed to issue a decision on Petitioner's administrative appeal within 120 days after holding Petitioner's review hearing.
4. If Petitioner's administrative appeal is denied by USCIS, then Petitioner may move to amend his pleading in this Court to seek review of that denial under 8 U.S.C. § 1421(c), however, Petitioner must seek leave to amend his pleading within 120 days of the denial, in accordance with the time requirements of Chapter 7 of Title 5, United States Code.
5. The Court will retain jurisdiction over this matter to ensure the parties comply with these instructions. Respondents will provide notice to the Court when the parties have complied with all of the applicable instructions.
6. All parties waive their rights to appeal the order of remand entered pursuant to this joint motion.

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7. The order of remand shall be without prejudice to the right of Petitioner to apply for attorney fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and related sections, against the Respondents.

Dated this 28th day of May, 2008.



HONORABLE PAUL PAPAK

United States Magistrate Judge